

## **MINUTES**

### **MONTANA SENATE 56th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON PUBLIC HEALTH, WELFARE AND SAFETY**

**Call to Order:** By **VICE CHAIRMAN FRED THOMAS**, February 19, 1999,  
at 3:15 P.M., in Room 410 Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. Al Bishop, Chairman (R)  
Sen. Fred Thomas, Vice Chairman (R)  
Sen. Sue Bartlett (D)  
Sen. Dale Berry (R)  
Sen. John C. Bohlinger (R)  
Sen. Chris Christiaens (D)  
Sen. Bob DePratu (R)  
Sen. Dorothy Eck (D)  
Sen. Eve Franklin (D)  
Sen. Duane Grimes (R)  
Sen. Don Hargrove (R)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Susan Fox, Legislative Branch  
Martha McGee, Committee Secretary

**Please Note:** These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 489, SB 467, SB 511,  
SB 478, SB 491, SB 491,  
Executive Action: SB 478, SB 491, SB 489,  
SB 511, SB 399

The meeting was called to order by **VICE CHAIRMAN FRED THOMAS** at  
**CHAIRMAN AL BISHOP'S** request. **VICE CHAIRMAN SEN. THOMAS**  
explained that there were 6 bills to hear this evening, and there  
are Senators on this committee and others who have meetings after  
that. Time is more precious than anything right now. We are

going to be very quick in our introductions, the testimony and our closings.

HEARING ON SB 489

Sponsor: SEN. JOHN BOHLINGER, SD 7, Yellowstone

Proponents: Chris D. Tweenten, Chief Counsel, Montana Department of Justice, Office of the Attorney General  
Jim Smith, American Cancer Society  
Scott Smith, Volunteer American Cancer Society, Board of Directors, Director of Cancer Services, St. Peter's Hospital, Helena  
Alice O'Donnell, Publicity Chairperson for the Montana Society of Radiology-Oncologists  
Jim Ahrens, Montana Hospital Association  
Lee Arbuckel, League of Women Voters  
Nancy Davis Walker, "Voice" Against Tobacco  
Bill Devine, Center for Adolescents  
Tiffani Gleason, Center for Adolescents  
Sarah Tobin, Center for Adolescents

Opening Statement by Sponsor:

SEN. JOHN BOHLINGER, SD 7, Yellowstone, has the privilege and responsibility of representing the good people of SD 7, they live on the North and South side of the old part of Billings. My constituents have an interest in how the tobacco settlement revenue proceeds are allocated. On their behalf he is bringing forward SB 489. Montana can receive from \$20 to \$60 million from this tobacco settlement in this next biennium. And up to \$800 million over the life of the agreement, which could run from 20 to 30 years. There are a number of allocation plans being considered, and he would like to offer SB 489 for their consideration. Senate Bill 489 is a bill that offers suggestions for the use of 1/2 of the settlement proceeds. The other half of the proceeds are prescribed in SB 323, which established a permanent trust fund. Regardless of the actual money that is received, public policy behind SB 323 and SB 489 is sound. And that is the use of the money for urgent health care needs and importance of retaining some of the money for a permanent trust fund for future and ongoing health care concerns.

Discussions in the first 30 days of this session have identified 4 major health care areas that need to be funded. The need to develop a tobacco disease prevention program, the purpose of this is to insure that future Montanans are not becoming victims of

this disease. The second important funding thing that we must take into consideration is funding of the children' health insurance program, the CHIP program, which he believes will be one of the most important pieces of legislation to pass through this session. He is pleased to say that it passed the **Senate** on a 48 to 2 vote. It will provide funding for insurance for 10,000 Montana children. The third area of health concern that needs funding is the matter of medicaid provider rates. We must more fully cover the cost of care to the providers by doctors, hospital and other health care professionals. The fourth major area of health care that needs funding is the General Fund, which has paid for tobacco caused diseases through the Medicare matching requirements and has done this for many years.

If you refer to the bill, on line 18, we are asking that 33% of the 50% of these proceeds be used to develop and administer a tobacco use prevention program. On line 20, we are asking that 15% of the money be used to support the Children Health Insurance Program, as provided for in **SB 81**. On line 22, we are asking that 12% of the money be used to reimburse for medical services under Medicaid, which have been paid for out of our General Fund for many years. Finally on line 23, we are asking that 40% of the money be used to support our General Fund for the worthwhile projects that are submitted to us for consideration that are all funded out of the General Fund.

To give these percentages a face, he would like to tell you what this face looks like. If we were to receive \$20 million in the tobacco settlement proceeds in this biennium. \$10 million, or 50% of that would be placed in the permanent trust, as prescribed in **SB 323**. \$3.3 million, or 33% of that money would be used to develop a tobacco and use prevention program, which is very important. \$1.5 million, or 15% of it would be used to help fund the CHIP program, the Children' Health Insurance Program. \$1.2 million, or 12% would be used to reimburse for medical services previously paid out of the General Fund to medicare providers. \$4 million, or 40% would flow into our General Fund and would be available for the many worthwhile functions of government. The funding available for each of these areas through **SB 489** may be much less than what many of the advocates for of these programs would like to see.

But we believe that it's a number that will grow as these funds are received by the State of Montana. **Senate Bill 489** is a good start and going in the right direction. Further more the allocation under **SB 489** will be subject to a biennial review by subsequent legislative bodies and those percentages can change as we know. If entirely different health care concerns developed, those health care concerns can be funded through the workings of

future legislative bodies. There are people that would like to speak on behalf of **SB 489** and at this time, he would like to call them forward.

**Proponents' Testimony:**

**Chris D. Tweenten, Chief Counsel, Montana Department of Justice, Office of the Attorney General**, stated that he knows they have a long day ahead of them so he will be brief. The Attorney General has already addressed this committee with respect to his ideas about how the Tobacco Settlement funds are to be used. They understand that there are a number of proposals that are circulating. They think that this one ought to take its place among those and ought to move forward in the process and they support the bill because the Attorney General favors the use of the money primarily for addressing the public health concerns that **SEN. BOHLINGER** spoke of.

**Jim Smith, American Cancer Society**, said as he told them before the Cancer Society and Heart and Lung Associations formed a nucleus of what they are calling the Anti-Tobacco Coalition. They sure want to thank **Senator Bohlinger** for being willing to carry this bill. He has told this committee their goal is a comprehensive sustained program of tobacco cessation and prevention. They worked with the Department quite a bit before the session on the development of that program. Part of that was wrapped up into **HB 131** which was heard in House Appropriations Committee on January 21, 1999, and as we say over on the House side, it disappeared into the black hole on January 21, 1999. You might say they have lost radio contact on **HB 131**. Simultaneously, with **SEN. DOHERTY** on **SB 133**, and we thought if half of the money is going into permanent trust and that met the goal of a sustained program, then we ought to look toward the other half of the money and in that context we worked with **SEN. BOHLINGER** to bring you **SB 489**.

Downstairs in the Appropriations Subcommittee, there are very delicate complex budgetary decisions being made, that are based on the disposition of this Tobacco Settlement. He thought this has to be taken into account along with everything else and he knows that they will, but you never know what good idea is going to fall upon fertile ground at the legislature, and what proposal or what idea is going to capture your interest, attention, and enthusiasm. We think this one is worthy of all that.

**Scott Smith, Volunteer Cancer Society, Director, Cancer Services, St. Peter's Hospital, Helena**, said he supports this bill very much. He believes that we need a comprehensive cancer program for the use of tobacco money in the State of Montana. He has

seen the recommended plan of tobacco money developed by the State Health Department and he also supports that. In his past history he has worked with cancer patients and treated cancer patients for well over 15 years. He has seen the devastating results of cancer caused by tobacco and he urges them to support this bill. Tobacco is still the number one cause of cancer in men and women.

**Alice O'Donnell, Publicity Chairperson for the Montana Society of Radiology-Oncologists,** said let me tell you it is very devastating to each and every one of us when we do a chest X-ray and find lung cancer. Lung cancer is the leading cause of death in men and women. She really is encouraging them to support this bill because they do need more education. And she must also add that she also is a former smoker. Fortunately she did see the light, so please do support this bill.

**Jim Ahrens, Montana Hospital Association,** stated **MHA** supports the bill and encouraged them to support the bill.

**Lee Arbuckel, League of Women Voters,** stated this is a priority for them. They would like to see CHIP funded. They understand that this bill is a source of CHIP funding, other purposes of the bill are laudable. He wanted to thank **SEN. BOHLINGER** and the leadership for bringing this bill to fund CHIP and other programs. It is right to use funds from the settlement of the suit about the past costs health problems come from tobacco make a healthier population in the future. They urge passage of the bill. They recommend that once tobacco settlement funds are assured that consideration be given to appropriate measurers to fund CHIP immediately.

**Nancy Davis Walker, "Voice" Against Tobacco** said she is obviously a former smoker. In 1989 she was diagnosed with cancer in her vocal cords and had the removal of her vocal cords with surgery. This voice of hers was a reality for 2 years. If it has education and prevention you will see her at this desk because she is absolutely trying to talk to everybody she can saying, put money into education and prevention now. She is not asking them to support her medical bills, which is about \$392,000 to date, or her medication that she is on that runs her about \$600.00 per month. But she is asking them to support the education and prevention in the bill so that kids that are coming up to her when she is in school saying, they started chewing when they were 5 years old, will not be ignored in the next 5 years, if this went into a total trust. We have to do something now to support education and prevention while every thing is being decided.

**Bill Devine, Center for Adolescent Development** explained that they are an organization that has provided alcohol, tobacco and

other drug prevention programming since 1982. Each year they work with hundreds of adults, and thousands, literally thousands of junior high, high school students in the communities that you folks come from and that you represent. Their goal is to develop the skills within these people so that they can do prevention programming and our activities are going to be effective in helping students develop and choose healthy life styles. It is inconceivable to the people that he represents that there would be money coming in from the tobacco law suit settlement that would not be utilized for tobacco education and prevention. To that end he would like to invite **Tiffani Gleason** and **Sarah Tobin** also to speak.

**Tiffani Gleason, Representative of the Center for Adolescent Development** but the most important reason she is here is just as a Montana teenager. She is in the age group that is being targeted by the tobacco company. They have very sophisticated people working for them to capture her and her friends as replacement smokers. We are not sons and daughters to them, they don't care. We are just people to fill in the ranks of the people of Montana and in the other states, that are dying because of those diseases right now. She urged them on behalf of herself and her peers and some day her own children, as well as your children and grandchildren and families to support this bill and support the idea of tobacco prevention in Montana. It can work. She is proof that it can work, but it needs all the help it can get.

**Sarah Tobin, Representative of Center for Adolescent Development** said that she is a very concerned high school teenager, not just for herself, but for children being born and for those yet to be born. The tobacco industry has millions of dollars at their disposal to target them, the youth to be come addicted nicotine users. Every day 3,000 teenagers begin smoking in America, and approximately 1/3 of those will become hooked for life. In Montana approximately 38% of high school students smoke. At the current rate, 15,000 kids will die. She is here to urge you to put as much into prevention education as humanly possible because the prevention education now will be what stops tobacco use in the future.

**C.B. Pearson, American Lung Association, Executive Director,** Dennis Alexander asked him to speak. He presented a free fact sheet. He just wanted to mention that if today is like every other day in Montana, 4 people have died as a result of tobacco use, 1,400 Montanans a year die. It is the leading cause of death in Montana and it is preventable. We know that tobacco use is designated as a pediatric on set disease, meaning that most people start when they are 14 on an actual basis. We can address

this problem. This is what the money is made to do. We have with the tobacco settlement an opportunity to change our culture, and change disease and actually save Montanans money. It costs Montanans an average of over \$100 per person to cover the costs related to tobacco disease. He passed out his fact sheet.

**EXHIBIT** (ph

**s41a01)**

**Jerry Domme, Retired Health and Physical Education Teacher in School District of Helena, Volunteer for the Montana Heart Association,** stated that they know what the tobacco settlement money needs to be used for, for a comprehensive educational program. The people of Montana, in every community in Montana has the benefits of this. We have programs that are in Montana right now but they don't cover every place. And we need to have that because of all the people that this hurts. As we know nicotine is a stimulant drug. When you put a stimulant drug in your body, it causes the blood vessels to constrict. When those blood vessels constrict, they stay that way for as long as nicotine is in the body. Now you can see pictured in your own mind as long as that nicotine is in there, and how often it goes in there, how small those blood vessels can get, and the damage that can happen to the body.

We have people that are blind. We have people that have limbs cut off, because of poor circulation. We have people with cancer. We have all kind of things happening to people because of this drug. In one of our text books there was a quote that stated, "in a room filled with tobacco smoke, if a person is in there for one hour, they have breathed in enough cancer causing chemicals in that hour to be the same as if they had smoked 20 cigarettes." Lets think about that startling fact. Lets think about all the homes children are in Montana, that have that. We have a statistic that is 52,487 children in Montana that have that as of 1996. Think of all the health care costs that are going to happen to the people of Montana when these children have illness caused by that. Think about our health care costs. We need a trust fund so that we have money coming in for this. But we also need that comprehensive health and prevention program to help us so that we don't have those numbers any more.

**Sami Butler, Represents the Montana Nurses' Association,** stated they support this bill. The association has been involved in tobacco free kids and in other prevention programs and they believe that this is a worthy bill. She won't bore them, but she would love to tell them the stories as a Registered Nurse, the people that she has taken care of on respirators and just give you a glimpse of that whole life style. Also so many people think of cancer being involved with the lungs, and she just wants

them to know smoking is one of the top three reasons why you have a heart attack. She would be happen to talk with them afterwards about any of that.

**Informational Testimony:** Hank Hudson, Administrator, Public Assistance Division, DPHHS

**Opponents' Testimony:** None

**Questions From Committee Members and Responses:** None

**SEN. DALE BERRY** asked **SEN. BOHLINGER** one really quick question. In drafting the bill and looking at all the programs, and he thought every proposal that he has seen for the tobacco settlement money is basically in the same category with a little bit different mix of items and the CHIP program has been significant. We've got it out there and he guess he looks at these numbers and in the early stages of this thing, you know you use \$20 million in example, but what if in that first year we get \$5 million and this is not going to fund the state portion of the CHIP program, is there some thoughts about these mixes, or priorities if these numbers are small that first year or two.

**SEN. BOHLINGER** answered this isn't the only source of revenue that will be considered as a possible funding source for the Child Health Insurance Program. This would be supplemental money. So for example if we do only in your illustration, we only receive \$5 million total monies, \$2 1/2 million would be made available for distribution in the percentage recommendations as prescribed in **SB 489**.

**Closing by Sponsor:**

**SEN. BOHLINGER** stated that he realizes that they have a number of bills to discuss. He thinks when they take up **Executive Action** on this bill they can visit about the issue more fully. He would say that the most powerful testimony that he has heard offered in dealing with this question of tobacco use and the need for them to bring forward legislation to keep young people from ever starting, is the testimony offered by **Mary Davis Walker**, touch my heart. It also touched my heart to hear these young people, these young students, **Tiffani Gleason**, and **Sarah Tobin**, speak about their efforts to keep their classmates and peers from ever starting. This made quite an impression on him and hopefully on all of the committee members.

**VICE CHAIRMAN THOMAS** stated that he wanted to compliment the proponents for excellent testimony. Thank you very much.



**{Tape : 1; Side : A; Approx. Time Counter : 1 - 22}**

**VICE CHAIRMAN THOMAS**, just before **SEN. BARTLETT** started her opening, **SEN. THOMAS** asked the members of the audience for their indulgence, they have six bills to hear this evening. The members have to act on all of these bills, amend them, and pass them tonight, plus other bills that they have. After **SEN. BARTLETT** opens her bill and any other bills today, he is asking them to just talk for a minute, tell them what they have to say about the bill, and whether they are for it or opposed to it.

**HEARING ON SB 467**

**Sponsor:** **SEN. SUE BARTLETT, SD 27, Helena**

**Proponents:** Kate Cholewa, Montana Womens' Lobby  
Wendy Young, Organizer WEEL, Stevensville  
Donetta Klein, Coping with Block Grants  
Carson Strege, Montana Peoples' Action  
Betty Waddell, Montana Association of Churches  
Lila Knudson, AARP  
Betty Beverly, MSCA  
Don Judge, AFL-CIO

**Opponents:** None

**Opening Statement by Sponsor:**

**SEN. SUE BARTLETT**, representing the people of **SD 27**, who generally reside in Central and West **Helena**, and in the community of **Unionville**.

**SEN. BARTLETT** explained **SB 467** establishes an unemployment insurance program within the FAIM, Family Assistance in Montana structure. If you think about it, our traditional welfare program, that is in the pre-FAIM days, in many respects served as an unemployment insurance program for low wage workers. Because of the structure of our traditional UI program, low wage workers often don't qualify. So instead of unemployment insurance these workers are on welfare during periods of unemployment. Under FAIM however, there are time limits upon receipt of cash benefits. So **SB 467** provides an alternative by setting up an FAIM unemployment insurance program for low wage workers who don't qualify for regular unemployment insurance. To qualify for this program an applicant must meet the eligibility criteria for

FAIM financial assistance, have worked at least 12 out of the last 16 weeks.

She would offer an amendment to clarify that they would have had to have worked at least 20 hours a week during 12 of the last 16 weeks. They must not qualify for regular unemployment insurance and they must have lost employment for "good cause." For the purposes of this bill and this UI Program, the "good cause" would include, transportation, child care problems, domestic violence, temporary illness, or death in the family. Like the regular unemployment insurance program, FAIM UI, Family Assistance in Montana Unemployment Insurance would be available for a maximum of 26 weeks. The person receiving this unemployment insurance must conduct a regular job search just like those people on regular unemployment insurance. And must keep a record of that job search. The bill sets this program up to use the same administrative structure as the FAIM pathways program, however the UI participant would not be eligible for child care assistance, case management service, support services or federal employment and training services.

Most important the program would be funded exclusively from the state maintenance of effort funds. The time on UI under this program would not count against the FAIM time limits. The concept then basically is simply to treat these people as workers who are temporarily unemployed and provide some payments for them through an unemployment insurance program.

**Proponents' Testimony:**

**Kate Cholewa, Montana Womens' Lobby**, spoke in support, distributed her written testimony and hand out.

**EXHIBIT (phs41a02)**

**EXHIBIT (phs41a03)**

**Wendy Young, Represents WEEL, Working for Equality and Economic Liberation**, stated 2 years ago, welfare reform was young. We had yet to understand the makeup of this workforce. What the grassroots groups have come to understand is that low wage work ebbs and flows. When families can't keep working they are ineligible for unemployment insurance as you have heard. This because they work part time or they are temporary. Welfare becomes unemployment insurance for these workers. Then the welfare system became one with time limits, and work first before training emphasis, now here we are with the case loads cut in half and a very large population that are border line workers. People are working, but we need newer services and supports to afford to work. This new environment calls for some new ideas, and **SB 467** is one of those ideas. The FAIM UI program outlined

in **SB 467** would help these border line workers survive between jobs and avoid re-entering the welfare system.

**Donetta Kline, Stevensville**, representing **Coping with Block Grants Project**, spoke in support of **SB 467**, and distributed three hand outs.

**EXHIBIT (phs41a04) EXHIBIT (phs41a05) EXHIBIT (phs41a06)**

**Carson Strege**, represents **Montana Peoples' Action**. She explained that Montana Peoples' Action is a low income action organization that includes a chapter of present and former welfare recipients. They are here in support of **SB 467**. Most of Montana's welfare recipients work. They want and are forced to. It is nearly impossible to make it on a meager welfare check without supplementing your income in some way. Many workers go back and forth between the welfare system and the low wage employment in Montana. While they are on welfare they are stressed and they have to do the impossible, stretch a \$400 monthly welfare check to meet all of their needs. They live under the poverty level and deal with a difficult time consuming welfare system. If they are lucky enough to find affordable child care and a job that justifies leaving the welfare system, they move into Montana's job market. Because 53% of Montanans pay less than a living wage, most of them take up one of these low skilled, low wage jobs. If their child care falls through, or their abusive spouse returns they are forced to leave their employment, and unlike almost every other class of worker, they are then not eligible for unemployment insurance. And this means that they are in fact a second class citizen, even though they are doing their best to stay in the work market. They urge the committees support of **SB 467**, and they think this bill will make welfare reform really work.

**Betty Waddell, Montana Association of Churches** said they want to add their voice of support **SB 467**. This is a great idea. It treats people with compassion. It gives them and treats them with dignity because they are treated like any other worker and it also saves them from the fear. It moves off that dreaded date of using up a lifetime use of the welfare money. She urges them to pass this bill.

**Lyla Knudson** from **Helena**, representing **AARP**, they support this program, **SB 467**.

**Betty Beverly**, representing **Montana Senior Citizens Association**, they also are present in support of this bill, **SB 467**.

**Don Judge, represents the Montana State AFL-CIO,** they too are in support of **SB 467**. Just very briefly to the best of their knowledge this does not affect the unemployment insurance trust fund whatsoever. It has no bearing on that. No employers will have higher rates, none of that kind of weirdness will happen. This is a good bill. It tends to treat these workers just like others, so we encourage you to give it a do pass.

**Informational Testimony:**

**Hank Hudson, Administrator, Public Assistance Division, Department of Public Health and Human Services,** said he would rather be thought of as an information witness in this case because he is not opposing the bill. They are interested in the bill. They have been having a dialogue since last summer about this bill and latest version of the bill that you see before you is very close to something that the Department can support. He won't take up time today with the concerns that they have with the bill in detail, but they have talked to the **Sponsor** this morning and have agreed to meet next week and do what they did with an earlier bill is to find the common ground and something that they can both agree on. But the kinds of things that they will be talking about so that they know, is they are going to have to clarify what job search means, because if it is nowhere near what the work requirements are under FAIM, they will have some concern about.

We want the legislature to discuss this, so they get direction from the Executive Branch, what good cause for losing a job is, because if losing your child care provider or car breaking down is a good cause reason to quit a job, then we need to be clear about that with all the people they serve. They don't always consider that a repeated reason to be losing jobs. There may be some cost to tracking this depending on how it is set up and the maintenance of effort is done. They want to look at that. He wants to assure people that when they come to his office and they have just lost a job, and they are applying for FAIM because they lost a job, we have a whole separate track now for those people, they don't go to parenting classes, they don't do those things. They go into the rapid re-employment track of FAIM right now. So those are some of the things they want to talk about. Also they want to talk about the name. There is some concern that if they call this unemployment insurance it is going to get mixed up with the current unemployment insurance program. Someone suggested that it might better be called the re-employment program, and that would be fine with them.

They do believe that this is a use of maintenance of effort funds that is acceptable. They can clarify a few matters. They think

it is an acceptable use of maintenance of effort. He is always concerned when people assure him that it is now more work and it will save lots of money for the Department, but that might be the case. They are willing to sit down and work out these things because there is a real good point in this bill. That point is that there are people that come into the welfare system because they really need unemployment insurance, and they can provide them a product that is much more suitable for people who want to get right back into the work force. They have very strong working relationships with the Department of Labor to do just that, and so he thinks this bill has a lot of merit, and they will see if they can find one that works for the folks.

**Opponents' Testimony: None**

**Questions from the Committee Members and Responses:**

**SEN. EVE FRANKLIN** asked **SEN. BARTLETT** in terms of the mechanism, **Hank Hudson** is talking about waiting until next week, obviously we need to meet transmittal, have you thought about that.

**SEN. BARTLETT** clarified that at this point it is on the list of Democratic bills from the **Senate** that would not have to meet transmittal.

**SEN. CHRIS CHRISTIAENS** said he has 2 questions and they need to be answered by **Hank Hudson**. What is the amount of maintenance effort fund?

**Hank Hudson** replied, it is around 15 million dollars.

**SEN. CHRIS CHRISTIAENS** asked if families are not subject to the TANF (Temporary Assistance for Needy Families) 16 months time limit?

**Hank Hudson** answered there are no rules yet for the TANF Program. So there is a great debate going on around what you can and what you can't use this money for. But it would appear that if you operate a program using only your state money, if its not in substantial noncompliance with the purposes and rules of the federal law, you can probably have some differences and operate it distinctly and still count it as maintenance of effort. So in this case, their feeling is, and no one knows because the federal government, in his discussion with them last week, will try it and we will tell you we are not going to count it, but you could create a financial crisis for the state if they disallowed it.

What he hears them saying is, don't try to avoid the work requirements, don't try to avoid the time limits, and those are

the kinds of things, and don't try to keep the federal share of the child support collections, things like that and you will probably be okay. Now in this case, even though people would be exempted from the time limit, it is for a limited amount of time, 26 weeks. So they think the argument can be made that this is not a substantial avoidance of the purpose of limiting the time people are on public assistance. It is a narrow population. He is not sure there is going to be a whole lot of folks in this population. There may be. It might be up to a 1/3 of their case load, but he would be surprised if it was that high. There is kind of a rule of thumb that says, about a 1/3 of the case load on public assistance, are people who come on once and you never see them again, there is another 1/3 of the population that tend to cycle on and off, because of crisis, and then there is another 1/3 of the population that has been on for a long time.

***{Tape : 1; Side : B; Approx. Time Counter : 5 - 25}***

**VICE CHAIRMAN SEN. THOMAS** asked **Hank Hudson** for clarification about his indicating that the length could go up to 26 weeks.

**Hank Hudson**, replied that he believed that was what the bill said.

**VICE CHAIRMAN SEN. THOMAS** requested **SEN. BARTLETT** to please address that when she closed.

**SEN. DON HARGROVE** asked **Hank Hudson**, if this is more or less windfall money in the form of Block Grant because welfare cases are going down.

**Hank Hudson** answered there is money available to the state because the case load is going down and some other reasons. They have to spend this \$15 million of state money no matter how low their caseload goes, if they want the federal block grant. They do have a lot of federal money. They have laid out a plan to use almost every dollar of that. So he wouldn't say that there is any money sitting around, but he would say that there is room for innovation and ideas so they have money for this.

**SEN. DON HARGROVE** said it is a great idea, probably one of the most worthwhile that we could do and all of that sort of thing. Is there a big picture on where the money that exists now is going, and does this fit in it?

**Hank Hudson** answered first of all he doesn't think this is going to be a large sum, maybe less than one million dollars, which in welfare spending is not less than can be accommodated. He thinks

this wasn't part of their proposal in **HB 2**, but it could be worked in there.

**SEN. HARGROVE** asked, since there is no Fiscal Note, he doesn't know if one just wasn't asked for, but does that mean because it is part of it, it is not an appropriation he guessed, he mentioned **HB 2**, will this have to be a part of **HB 2**?

**Hank Hudson** answered they would have to adjust **HB 2** to reflect that if they were going to spend the money on unemployment insurance program, it would have to come out of somewhere else. It could very well come out of the benefits line. These are people who would be eligible any way and take their same benefit check. They would be taking it as a part of this program. We didn't think there was a fiscal note. We didn't feel concerned enough to have a Fiscal Note on this bill.

**Closing by Sponsor:**

**SEN. BARTLETT** stated that as she mentioned, this bill does not need to meet transmittal, so they can spare them the need of Executive Action this afternoon on this bill. At this point the bill indicates that the maximum time for someone to be able to draw these types of unemployment insurance benefits is 26 weeks, but it does it in an oblique way and the second amendment that she would be proposing to bill would make that clear. That it is a maximum of 26 week period, which is exactly what is the typical eligibility period for the regular unemployment insurance program. So that it is modeled pretty closely.

**VICE CHAIRMAN THOMAS** stated that any who wanted to leave could go ahead, that concluded the **Hearing on SB 467**.

**VICE CHAIRMAN THOMAS** said they would open the **Hearing on SB 511**. He knows that we have people coming and going in committee and that is just fine. For those that have arrived and have not heard our little pitch today, we have 6 bills that we are hearing this afternoon, and after the Senator opens his bill they will ask any body testifying to please limit their time to one minute, so they can fully hear and discuss the bill, etc.

**HEARING ON SB 511**

**Sponsor:** **SEN. JON ELLINGSTON, SD 33, Missoula**

**Proponents:** **Doug Campbell, Missoula, MSCA**

**Betty Beverly, Montana Senior Citizens'  
Association.**

**Chet Kinsey, Private Citizen, Helena  
Wendy Young, Organizer, WEEL  
Don Judge, Montana State AFC-CIO  
Senator Eve Franklin, Member Senate PHWS  
Committee  
Anita Roessman, Montana Advocacy Program**

**Opponents: George Wood, Executive Director of the Montana  
Self-Insurers Association**

**Opening Statement by Sponsor:**

**SEN. JON ELLINGSTON**, represents **SD 33**, and the people of **Missoula** who live at the base of Mount Sentinel and the north side of the city. He said today he brings them **SB 511** and he wants to say to the committee initially that he appreciates the opportunity to be here. He recognizes that they are operating under time constraints. They have a lot of business to do. He will try to make our points in the bill as succinctly as possible, but he hopes in the haste of trying to recognize the time constraints we are nevertheless able to make their points.

Five years ago, they were in the mist of the national debate on health care reform and those who thought that government should play a leading role in this process were told that government involvement would create a large unwieldy bureaucracy. We were told that government involvement would be too costly and that only the private sector could bring costs of health care under control. We were told also that a government-run system would be unresponsive to patient needs and services would be denied and the choice of services and providers would be limited. And our lines of health insurance companies and medical products manufacturers and drug companies banded together to defeat national health care reform. But guess what, we now have a system that is deficient in the very same ways that a government-run system was supposed to be deficient. More and more people are being forced into health maintenance organizations which limit their choice of doctors. And which limit the kinds of treatment which will be permitted and which have not controlled costs. Access to care continues to be denied as 42 million of our citizens remain uninsured and that includes over 100,000 of our Montana citizens. Quality of care continues to be an issue. Recently, a \$160 million verdict was entered against a health care provider in the State of California when it was determined by a jury that the recommendations made by the patient's doctor were ignored by the accountants and as a result of that, serious medical consequents were incurred. He believes that in that



particular case, the patient died. And the patient would have lived, had the doctors own recommendations been followed. But the health maintenance declined to follow those recommendations.

Choice of doctors is being denied. If you belong to an HMO typically you must use the HMO physician and not your long time family doctor. Costs have not been controlled, and he presented a hand out for their consideration. A chart which continues to astound him. He has highlighted the features of the chart which he wishes to bring to their attention. This is a chart on health care expenditures.

**EXHIBIT (phs41a07)**

For a number of countries and the United States have been highlighted over the last 38 years or so. In 1960, 5 cents of every dollar that each one of us earned bought us a high quality health care system in the United States. Today it takes almost 14 cents out of every dollar, that we earn to provide for our health care expenditures. Health care expenditures have risen from a total of \$27 million in 1960 to now over \$949 million into 1994. For a 35-fold increase in health care costs. This an unprecedented redistribution of wealth from public funds, that is the funds of the people to one industry. Of these costs, over 25% of each health care dollar goes to administration and marketing. You are probably all familiar with the kinds of ads that we are seeing and more and more often in the news magazines advertising particular drugs and remedies. That has a cost, and that is all a part of private system that put us into the situation which we are in today.

And if you are covered by good insurance and feel that you don't have a problem, he would remind them of the fact that you are paying for those people who are not covered by health care insurance. If you go to a hospital and you are charged the full amount at that hospital, a full 20% of every charge goes to pay, over and above the cost of your treatment, for the sole purpose of covering people who make no payment.

And there are further problems which are unique to the private sector. Fraud is a growing problem in the private sector. High flying health care enterprises are increasingly being exposed for fraud as they see in the example of the Columbia Health Care Company, which is an organization which got its start buying up hospitals and making enormous profits off of these hospitals and now it has been discovered that there is substantial fraud in their operation. It is therefore clear to him, that profit driven private enterprise has not only not solved our critical health care problems, but has actually contributed to it. He would therefore, suggest that it is incumbent upon them to

consider other solutions and **SB 511** presents the solution called "Single Payer Alternate" for your consideration.

The essential elements of this bill are as follows: It does create one (1) State Agency which is given the power and authority to regulate health care in the State of Montana. The powers it is given are broad. The agency is given the power to make payments to health care providers for your individual medical services. Its given the power to collect revenues, to pay for those services, to establish rates for medical services and to specifically institute costs contain measures. The agency is charged with the responsibility of determining what services will be provided, and in the course of doing so, it relieves every citizen of the state of the requirement of paying for health insurance and for other health care costs which are covered by the system. And it provides medical services for every citizen of the state. So this bill and this system, addresses costs, addresses the problems of access, specifically cost containment and of choice. These are the problems which he believes facing our health care system today and these are problems which are addressed. He will say very candidly to the committee that he recognizes the political environment is not one in which the likelihood of this kind radical reform is going to be approved of. But he brings this bill to the committee for their consideration for several reasons.

First this is the committee with the expertise in this area, and he doesn't think that they can let this legislative session pass without being reminded that the costs and problems which they hoped were going to be addressed by the private sector, have yet to be addressed by the private sector. We still have problems with access. We have problems with people who don't have medical insurance. We have problems with cost and we have problems with quality. The question he puts before them, is this. What are we going to do about it. This is one possible solution, that he commends to them for their consideration.

**Proponents' Testimony:**

**Doug Campbell**, resides in **Missoula**, **Past President** and **current Board Member of the Montana Senior Citizens Association**. He stated that in the 15 years since his retirement he has been working with **MSCA** for a single pay universal health care plan to cover all Americans. Since a nationwide plan does not seem to be in the immediate future, **MSCA** has been supporting a plan for universal coverage for all Montanans in the past 2 sessions of the State Legislature and again this year with **SB 511**. Several other states including California, Massachusetts, Minnesota and Maryland are also working on state plans for their citizens. As

a recent article stated, health coverage like defense is in the national interest.

A few years ago, he served on **Senator Max Baucus' Citizens Health Committee** to study ways to provide affordable health care for all Montanans. At that time, the state conducted a study of the cost of a single payer plan and concluded that such a plan would save the state money. Studies by the federal government have also shown that a national single payer plan would save many billions of dollars a year and provide health care for all Americans.

We now have 43.4 million citizens uninsured. If the present trend continues, it will reach 48 million by the year 2005. While large insurance companies continue to merge and form or buy out HMO's, our health care options continue to deteriorate.

We are being held hostage by large insurance companies only in making profit at the expense of our health care. Top executives in the nations largest HMO's average \$2 million in compensation in 1997. The CEO of Travelers' Insurance Company received \$400 million in compensation in 1998. A group of 600 physicians recently withdrew from a large HMO in California. They have several thousand members and they were the advent of the HMO's, and they are adding more thousands each year. Physicians are not happy with managed care and HMO's.

There is plenty of money in the system to make sure that everyone in this country has adequate healthcare. How it is going to be allocated is the problem. We spend 14% of our GNP on health care, other nations spend much less. Canada is the closest with 9%. He thinks that the recent experiment with Magellan Health Care has shown that managed care does not work. They urge the committee to support **SB 511**, and he wants to thank **SEN. ELLINGSON** for carrying this bill for **MSCA**.

**EXHIBIT (phs41a08) EXHIBIT (phs41a09) EXHIBIT (phs41a10) EXHIBIT (phs41a11)**

**Betty Beverly**, representing **Montana Senior Citizens Association, MSCA**, in support of the Montana Health Care Security System, and for creating the Single Payer and Universal Health Care services for Montana as provided in this bill. Thank you to **SEN.**

**ELLINGSON** for **sponsoring** this important legislation. This is not a senior citizen issue. This is about the caring for all Montanans. Medical costs are about to sky rocket again and in part because all possible savings that can be made by limiting choice have been exhausted in the drive toward more HMO coverage.

Welfare reform is leaving former welfare families without coverage. Fraud is being uncovered at such a rate, it suggests

much of the great profit in HMO's come from simply overbilling the government. Late last year, two of the largest for-profit hospital companies were sued by the government for systematic overbilling over a 14-year period, that may run into billions of dollars. Health consulting firms predict HMO costs will be up 8 to 9% in 1999. The same rate as for the traditional insurance which has fewer cost controls. The number of Montana citizens with no health care continues to rise. The majority of Montanans are low income individuals and families, many of whom are children and young adults, disabled, without a means of paying for health care coverage they become a burden on those with coverage to absorb the costs through the premium they pay, including the state of Montana. Going without health care is not acceptable from the selfish stand point of creating a perpetual threat to others or allowing fellow humans to suffer from lack of care. Unfortunately there will be those who oppose this humanitarian legislation.

So let us look at some of those claims of the opponents. Corporate and business interest from within and without Montana will seize on the fact that health care has a cost. It will ignore the the fact that any taxes in this bill will go to replace the premium already being paid by business and government, and they will overlook the fact that beginning roughly 18 years ago, they had been the recipient of tax cut after tax cut, while we the people got nothing. The state already pays millions of dollars for health care coverage including disasters of managed care for what we pay out millions of dollars to an out-of-state firm, that can't manage to provide care for the mentally ill, but keeps coming back for more money. With this bill, mental health care can be brought under one Montana health care umbrella, covering employees Medicaid state facilities, prisons and other programs, including the new CHIP program which they strongly support.

This bill is planned on the Canadian health care system, and is similar in all the industrialized countries, except the United States. South Africa passed this in 1996, we are standing alone. The bill is about providing care for people, preserving life, care for and helping one another. Unlike managed care which focuses first on making money for the owners, this bill is about having your own doctor and being referred to a specialist when you need such care and adequate care in hospitals and nursing homes. It is about the poor, the children, the elderly, the laying in the hall. Its about preventing disease and illness, thereby holding costs in line. It is about doctors treating patients, about nurses caring for patients, about adequate staffing in hospitals, long term care and nursing home facilities. It is for all of Montanans. She urges the committee to support this bill.

**Chet Kinsey**, lives in **Helena**. He is here as a supporter of this bill. He will give a little bit of history on this. **Mary Dingle-Wagner** bill back in 1943-1944, was the first attempt to get it. His organization at that time was the **Farmers Union** and they had a health care bill at that date, many years ago back in 1935-1936, was when they first proposed this bill. And **AFL-CIO** which was just the AFL then he thought, also had the same kind of support for the same kind of a bill. So its been in the works for years and its time it gets out of the works and into action. And you people can do it. It can be done this time if you put your wills to it. And he hopes they will think in those terms and there is a lot of things that can be done, if you put your minds to it.

**Wendy Young, WEEL**, stands in support of this bill. She also has been asked by **Kate Cholewa, Montana Womens' Lobby**, to speak. They also support this bill.

**Don Judge**, represents the **Montana State AFL-CIO** in support of **SB 511**. He stated very briefly that they support the goals of the bill. They appreciate the **Sponsor's** exemption of collective bargaining contracts and Workers' health benefits. They wonder about the impact on Workers Comp. They see that it can be rolled in, but not necessarily that it is rolled in immediately. We know that the coal companies are going to complain about taxes on the one hand and our members will complain about taxes on beer on the other hand. In order to further the committee's effort, he sees all his good friends from the insurance industry that he has been visiting with for the last several weeks at this legislature all prepared to leap upon the bill.

**Senator Eve Franklin, Member Public Health, Welfare, and Safety Committee**, said as a member she chose to speak. She rises as proponent and she is also here as a survivor of the **Montana Health Care Authority, 1993**, they attempted to address so many issues of the health concerns. She had hoped with the death of that effort, the free market would resolve some of those problems, however that has not materialized. The whole discussion has moved so far from the concept of access to care to the concepts of universal access and in a way of de-legitimizing some of those issues. She actually couldn't bring herself to sign the bill, being too battle weary, the implementation of this probably is rather difficult and improbable. So she chose not to sign it, but she needs to talk to her **Committee Members** who are going to be dealing with this over the next decade, when she will be gone.

The basis core issues still have to be addressed and her concern is that they have come so afraid to talk about the basic issues of universal access, because we will be tainted by being called socialist or lunatics and radicals, that they will lose sight, because all of us who are mostly conservative middle classed people who don't want to be thought of in any of those terms. If they move so far, from the core discussion, that they will forget the basic needs that are very real and out there and they will forget the free market principals are different and do not solve all our problems in health care.

**Anita Roessman, Montana Advocacy Program**, which is an advocacy organization for people with disabilities. She works with people with mental disabilities. They are here today because they believe universal coverage for people with mental illness is a necessity and as **SEN. FRANKLIN** pointed out, we are eventually going to come around to realize that. She hopes that the wisdom begins today. Mental illness is an illness no less than a thyroid disorder or diabetes, and frequently those illness cause dementia and other things that look like mental illness. It is capable of causing more havoc in peoples lives than just about anything that means that people are covered one day and not covered the next. It means that people fall into bizarre categories that are not insured by anybody. For instance people who receive social security disability income, make a little bit too much for medicare, or medicaid, but can't be covered under any other system either. Those folks cost us a great deal of money because they are hospitalized in the most high end and expensive services and its just not necessary. If we had a rational system of health care that covered every one and mitigated this suffering, we wouldn't have many of the costs that we have today. And at the very least, we need to start studying universal coverage for Montanans.

*{Tape : 2; Side : A; Approx. Time Counter : 1 - 26}*

**Opponents' Testimony:**

**George Wood, Executive Director of the Montana Self-Insurers Association**, a group of employers in Montana, said he is not here to speak to the merits of the health control bill. They have no position on that. They say that if you pass such a bill, that Workers' Compensation be exempt, because of the unique nature of Workers' Compensation and the payment of the medical claims. But also the unique nature of the medical services that they use under the Workers' Compensation system. They therefore, take the position that the merits of the health portion of this are one that they don't address, but they do say that they need the exemption.

**Questions from Committee Members and Responses:**

**SEN. ECK** inquired where was Willa Dale Evens.

**Betty Beverly** responded that Willa Dale is suffering from congestive heart failure and has just recently sold her home and moved to Billings, and is unable to travel, or she would be here.

**SEN. ECK** said she has always been here telling us how she carried a petition in 1935, when she was 7 years old.

**SEN. HARGROVE** questioned the current background and where all of that came from, and what brought it up.

**SEN. ELLINGSON** asked for him to explain background what.

**SEN. HARGROVE** clarified he wanted to know the background on this bill. Who wrote it other than a bill drafter?

**SEN. ELLINGSON** explained that this bill has been presented to the legislature 2 times previously in somewhat revised forms. But it is pretty much the way it was initially.

**Closing by Sponsor:**

**SEN. ELLINGSON** thanked the committee for the opportunity to present these issues to the committee on the last day of hearings before transmittal. He appreciates the attention which they have given to these issues. He hopes they'll remember as they think about health care issues as they go forward that access, cost containment, quality control, those are all issues that are going to have to continue to deal with. This is one very good alternative, that merits serious consideration, so he hopes they will keep it in the back of their mind, as they are thinking about these issues on into the future.

**HEARING ON SB 478**

**Sponsor:** **SEN. CHRIS CHRISTIAENS, SD 23, Cascade, Great Falls**

**Proponents:** **Daniel Boatman, Co-owner, President of the  
Central Montana Surgery Center in Great Falls**

**Opponents:** **None**

**Opening Statement by Sponsor:**

**SEN. CHRIS CHRISTIAENS, SD 23, Great Falls,** he proposes **SB 478** which describes a need that has occurred within his community regarding ambulatory surgical facilities and the need to have their own DEA number. They find that they have a new facility operating in Great Falls and the only way they are able to operate permanently is with the number of one anesthesiologist who is operating within that facility. This bill is basically all on page 2 in a new section 1, they will require the board of pharmacy to adopt rules for registration of ambulatory surgical facilities and it gives a time line by October 1st of year. There are people present to support this bill and he did receive a fax on the Floor during the session that said the Board of Pharmacy had a technical issue. He hasn't a clue what that may be because he believes the drafter has worked long and hard to make sure that any problems have already been fully addressed.

**Proponents' Testimony:**

**Daniel Boatman, Co-owner, and President of the Central Montana Surgery Center in Great Falls.** The newest ambulatory surgical center in the state. As they went through their arduous process of getting all of the certifications, licensure, and certificate of need, rules and all of things that took us to develop our new center over a 2 year and 2 month period, the least of our worries are the biggest surprise that came to us, as they came to final opening date and they were attempting to get what they thought would be a routine drug enforcement administration, otherwise known as the DEA number. They couldn't do it. And they scratched their head and said no, this doesn't make any sense to us, why is that. Well basically the federal government will follow the lead of the states, and if the states allow for an organization such as ours, or an institution, if you will to obtain an DEA number as a repository that's fine. And if they don't, they just won't allow that.

So basically we had to hitchhike on the DEA number of our Chief Anesthesiologist. That's somewhat unfair to him, that puts a burden on him to be responsible for all of the control substances that come into our organization that may be used by other anesthesiologists and what they are basically asking for here is to allow them to assume that responsibility in a logical way. They worked with **SEN. CHRISTIAENS** and looked at the statutes of other states. The state of Washington had a very expensive detailed bill. In working with the bill drafters and everyone else it was concluded that there was a mechanism already existing in Montana statutes and simply they needed to amend themselves into that mechanism to allow ourselves and the other ten ambulatory surgery centers in this state to obtain those DEA numbers. That could be done through this legislation and the



appropriate follow up rule-making process. So on that note he would ask their support, and ask them to give permission to do the simple step and step up to the plate and take responsibility for these controlled substances.

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:** None

**Closing by Sponsor:**

**SEN. CHRIS CHRISTIAENS** stated this is obviously not just this one facility. There are 10 as **Mr. Boatman** mentioned to you. This is a problem that we need to get addressed.

**HEARING ON SB 491**

**Sponsor:** **SEN. DUANE GRIMES, SD 20, Clancy**

**Proponents:** Steve Browning, Representing, Montana Hospital Assn.  
Donald Harr, Physician, Psychiatrist, Billings,  
MT. Medical Association/Montana Psychiatric Assn.  
Gloria Hermanson, MT. Psychological Association  
Noel Drury, President Psychiatric Association,  
Medical Director of Pathways Treatment Center  
Anita Roessman, Montana Advocacy Program  
Andrea Merrill, Executive Director, Mental Health  
Association of Montana  
Sami Butler, R. N., Montana Nurses Association  
Claudia Clifford, Health Policy Specialist,  
Commissioner of Insurance Office

**Opponents:** None

**Opening Statement by Sponsor:**

**SEN. DUANE GRIMES, SD 20, Clancy**, said he brings before them **SB 491**. It is an act advising the law governing HMO'S, applying that law to mental health, HMO'S as well. **SB 491** comes at a most important time for this legislature. The **Joint Appropriations Subcommittee on Human Services** today adopted language that directs the Department of Public Health to terminate their relationship with the current vendor. They don't know exactly what the upshot of that entire process will be yet, but maybe what this bill reflects is some 20 - 20 hindsight on their part.

The public policy question posed by this bill is whether managed care entities who do business with our departments should be subjected to Montana insurance statutes. This bill does not require the Insurance Commissioner to exercise over-sight of the mental health access plan. The bill does require the Commissioner to exercise over-sight on the managed care in the same fashion this office regulates other insurance companies. The Department will remain responsible for its contract that it currently has. There are a number of people who will speak on this, so he will cut his opening short and reserve right to close.

**Proponents' Testimony:**

**Steve Browning**, representing **Montana Hospital Association**, spoke in favor of **SB 491** and presented written testimony. **EXHIBIT (phs41a12)**

**Dr. Donald Harr**, **Physician, Psychiatrist from Billings**, representing both the **Montana Medical Association** and co-representing **Montana Psychiatric Association**. They have been fully concerned about the mental health care for individuals who are in the public sector care for the last 2 years certainly. They are aware of the problems so he won't go into all of those. They think it is very important that they have exclusion in this previous exemption that is there. So that what-ever system that is continued, it will be under the appropriate management and concern. Therefore, they support this bill, **SB491**.

**Gloria Hermanson**, representing the **Montana Psychological Association**. She agrees with **Steve Browning** that this is actually 20 - 20 hindsight at this point. If mental health managed care had not been exempted in the first place, we may not be in the bind we are in today with managed care. The future is sort of up in the air with managed care and this is a good way to maintain a handle on it.

**Noel Drury**, **President Psychiatric Association, Medical Director of the Western Montana Mental Health Center, Medical Director of Pathways Treatment Center**, with is a subsidiary of **Kalispell Regional Medical Center**, also a member of the **National Bureau**, He stated that he is in total support of this proposed legislation, and encourages support of it. He cares for over 350 indigent individuals in northwestern Montana, range from Ronan to Polson, up to Eureka and Libby and Kalispell, who suffer from severe mental illness. He has experienced much since April 1997 during the onset of the implementation of our managed care organization presence in Montana. This is the sort of legislation that can really put some important checks and

balances into the system and can also assist in putting us all on the same level playing field when it comes to disagreements.

**Anita Roessman, Representing, Montana Advocacy Program** said she supports the testimony that they have heard from other proponents. She only wants to emphasize and she says this like a tape recorder at every meeting that she goes to, mental illness is an extremely sensitive condition in many cases. It is very important that the system we use to deliver health care services be stable. We hope this legislation will have that effect. They are very hopeful about other legislation that passed out of the general appropriations committee today. They think they are going to have a different system and they think there will be a smooth transition, because the good will is there. The problem is those folks need to stay solvent forever so that they can maintain that kind of stability.

**Andrea Merrill, Executive Director of the Mental Health Association of Montana**, spoke in support of **SB 491** and presented written testimony to the Committee.

**EXHIBIT (phs41a13)**

**Sami Butler, Executive Director, Montana Nurses Association, and Registered Nurse**, spoke two words, "accountability" and "oversight".

**Claudia Clifford, Health Policy Specialist for the Commissioner of Insurance** said the **Commissioner of Insurance** was out-of-town. He did testify in support of **REP. KRENZLER's** bill, which is a similar approach to this issue. In fact the House is having Executive Action on that bill this afternoon. Essentially, she wants to make it clear to them, they didn't request this legislation. This legislation came to them from other interested parties. They are willing to implement the legislation and regulate the entity. They want to point out to the committee how this bill works in its effectiveness on the contractor.

Actually this bill doesn't state it as clearly as **REP. KRENZLER's** bill. They can't affect a current contract primarily by contract laws. So it is their position that unless there was a new contractor or an amended contract with the current contractor, they may not have any jurisdiction over the current contractor. That's one issue. The other issue is on page 1 at the bottom of the page where they are striking the provision that exempts their jurisdiction, **REP. KRENZLER's** bill leaves the provision in and just strikes the "not." Clarifying to them that the code does apply. It is a clearer approach. You could do it either way, but they will have no hassle with the up coming contract, if you leave it in the process.

**Opponents' Testimony:**   None

**Questions from Committee Members and Responses:**       None

**Closing by Sponsor:**

**SEN. GRIMES** said given **Ms Clifford's** comments, the question might be then why do we have the bill. As he understands it, given everything that is going on, it may be very appropriate for both houses of the legislature, early in the process to weigh in on this. So he thinks that kind of summarizes why the bill is coming to them now. The second thing to give them a brief overview of some of the things that are normal insurance functions of the **Auditor's Office** we would normally look at in this case. He believes there was some abbreviated review in the current contract, but under the full implications of the bill, the Commissioner will look at the financial strength of the administrative systems necessary to deliver services. They would require the contractor to have an adequate provider network. That might have been some of the legislation that they passed in Alaska as well. In addition, the Insurance Commissioner can exercise substantial powers to compel an HMO to perform in certain ways, and would also be responding to consumer complaints.

*{Tape : 2; Side : A; Approx. Time Counter : 1 - 30}*

**Announcements:**

**VICE CHAIRMAN THOMAS** said to **SEN. BARTLETT** and Committee members it was fine if they held off on her bill, **SB 467**.

**SEN. BARTLETT** agreed.

**VICE CHAIRMAN THOMAS** stated they were just going to hold and not take any action. This bill is on the list.

**Subcommittee Report on SB 322 - Sen. Waterman's bill:**

**VICE CHAIRMAN THOMAS** reported the bill is the hospital conversion bill. They met today, February 19, 1999. They are going to meet again. He thought the bill is on the list of 10 as per **Sen. Waterman's** comments in the Subcommittee meeting today. They are not going to act on this bill at this time either, unless there is a motion from the Committee.

**EXECUTIVE ACTION ON SB 478**

**Motion:** SEN. CHRISTIAENS moved that SB 478 DO PASS.

**Discussion:**

SEN. CHRISTIAENS stated that when he was in the hall, a lady was coming into testify and the testimony period was over, so he has her written testimony from the Kalispell Outpatient Surgical Center in support of the bill, to be included in the record.

**EXHIBIT** (phs41a14)

**Vote:** Motion that SB 478 DO PASS, carried unanimously - 11 - 0.

**EXECUTIVE ACTION ON SB 491**

**Motion:** SEN. BOHLINGER moved that SB 491 DO PASS.

**Discussion:**

SEN. BARTLETT asked if the Committee would consider an amendment based on the comments Ms. Clifford made to restore subsection 6, that starts on Line 30 and simply strike the "not."

**Motion:** SEN. BARTLETT moved that SB 491 BE AMENDED.

**Discussion:**

SEN. BARTLETT asked SEN. GRIMES what he thought about the amendment.

SEN. GRIMES said it was fine with him.

VICE CHAIRMAN THOMAS clarified that it was moved by SEN. BARTLETT to reinstate language on Page 1, Line 30, subsection 6, ending on Page 2, Line 1, and to strike the word "not."

**Vote:** Motion carried unanimously - 11 - 0.

VICE CHAIRMAN THOMAS said they now have the bill as amended to consider.

**Discussion:**

**SEN. GRIMES** commented that it wouldn't have eliminated all the vendors that applied for the current contract that competed. It would have only eliminated one of them. The one that was successful in getting the contract. It is interesting.

**Motion/Vote:** **SEN. GRIMES** moved that **SB 491 DO PASS AS AMENDED**.  
**Motion carried unanimously - 11-0.**

**EXECUTIVE ACTION ON SB 489**

**Motion:** **SEN. BOHLINGER** moved that **SB 489 DO PASS**.

**Discussion:**

**SEN. GRIMES** asked if **SEN. BOHLINGER** would be amiable to an amendment. The amendment would be probably in various places in the bill, depending on how **Susan Fox** would want to put the amendment in. It would be up to 50% of the subsequent proceeds, rather than 40%. In other words, any amount up to that threshold and below, making it a little more discretionary. The reason, he said, is because while tobacco prevention is critically important, he has been hearing ever since he became a legislator that the thing that will effect tobacco purchase, more than anything else, is its cost. And the cost is obviously going up. Secondly, the settlement itself mandates at least some tobacco education on the part of manufacturers.

He said his point is there may be better ways, **SEN. BOHLINGER**, to utilize these funds, or 50% of the funds. Maybe even for some programs that **SEN. BOHLINGER** is very keen on, in other ways besides just tobacco prevention. He can think of numbers of ways that the money can be used in very health related, important social benefits. To lock themselves in at 50%, he thinks would be a mistake. He isn't saying what it should be, but maybe **Susan Fox** could assist them in how to do that in this particular bill.

**VICE CHAIRMAN THOMAS** said, before **Susan Fox** answers that, since it is a question to **SEN. BOHLINGER**, how does he feel about that amendment?

**SEN. BOHLINGER** answered, he thinks there is a great deal of flexibility offered in the percentage division that they have illustrated in the bill. Forty percent (40%) of the 50% would be allocated for use in the General Fund. The 40% that would be allocated for the general fund is there and available for debate

by the legislative body. In the illustration that he brought forward, if for example they receive \$20 million, there would be \$10 million available. If they get \$10 million, there would be \$5 million available, 40% of that would be available to the body for discussion, and allocation. He thinks there's flexibility enough in the formula, just allowing 40% for General Fund use. He thinks that provides a great deal of flexibility.

**SEN. GRIMES** responded he would ask **Susan Fox**, if some additional flexibility made sense to her in his proposed amendment.

**VICE CHAIRMAN THOMAS** asked **Susan Fox** if she could draft the amendment.

**Susan Fox** answered there are two places because of the coordination instruction that they would need to change from 40% up to 50%. So she does understand what would need to be done to amend the bill.

**SEN. GRIMES** said, with all due respect to **SEN. BOHLINGER**, he certainly doesn't want to mess up the approach here. He just thinks they cannot begin to understand how these funds can best be used, in the future. To have that additional flexibility would be very important.

**Motion:** **SEN. GRIMES** moved that **SB 489 BE AMENDED**.

**VICE CHAIRMAN THOMAS** reiterated that a motion has been made to amend **SB 489** by inserting the language "of up to 50%", asking **SEN. GRIMES**, if that reflects his intentions, and were the Committee members comfortable with the language as portrayed.

**Discussion:**

**SEN. BARTLETT** asked **Susan Fox**, if it is not going to be a fixed 50%, would there need to be some language that addresses what happens if it falls below 50% in relation to the percentages that are spelled out in subsection (A) through subsection(D), Lines 18 through Lines 23, or is it just automatically assumed that there would be a prorata reduction?

**Susan Fox** answered, "yes" she thought the percentages that exist to whatever pot of money that comes in. It was crafted that way because they weren't certain what the amount would be at any one time, regardless of the percentage. It may be \$500,000, or it may be \$50 million. It was intended to apply the percentage to whatever amount was available. They are okay.

**SEN. ECK** had a couple of questions. She doesn't know how many bills floating around that allocate the tobacco settlement money. How do they expect those to be handled, will they all go to Senate Finance and Claims Committee, the Senate bills. Her guess is it will end up in **HB 2**. She asked some of the Committee members that were on Appropriations Committee, **SEN. CHRISTIAENS**.

**VICE CHAIRMAN THOMAS** asked **SEN. CHRISTIAENS**, or **SEN. FRANKLIN** to answer that question.

**SEN. FRANKLIN** said she was saying to **SEN. BOHLINGER** they should have a Tobacco Summit, like a Subcommittee. She thinks they will have to have something like that at one point.

**SEN. CHRISTIAENS** said he and **SEN. BERRY** have been discussing this as they were hearing the bill. There are a lot of bills out there and everyone is just a little bit different. He is concerned about that too. At some point they need to bring everybody to the table and start deciding where this is at.

**SEN. ECK** said the other comment she wanted to make was about flexibility. When you look at 33% that goes to tobacco disease and use prevention program, and if you look at what is really affecting the prevention, there is any amount of flexibility already built in the bill. She is comfortable with it. It doesn't fully fund the CHIP (Children Health Insurance Program). She thinks it is the intent of the Governor and the Appropriations Committee, which is what the Tobacco Settlement does. There is 40% that goes into the General Fund. Right now it is considered if there is not enough money in the Tobacco Settlement, it will be funded through the General Fund. What she is really saying is she doesn't think they need to nickel and dime this bill, because all these bills will go together some place and be hammered out.

**SEN. DEPRATU** said as they are thinking about this whole tobacco situation, he thinks they need to really maintain a good opportunity for a enough funds to go for all of the education of the young people that they can do. In doing this, over a period of years, that is going to drop off the sale of cigarettes, he thinks that is going to be important for the use of tobacco. As that drops off, that is going to diminish the amount of revenue that is coming in. The one thing that he thinks they really need to be careful of is, is that they don't get into the idea that they will add more tax or we will do things. It is important for them to recognize now, at today's prices of cigarettes, that he can bring up a 40' van, tractor trailer out here. In it you can have \$1 million worth of cigarettes in that van. That now becomes fairly attractive to some segments of our society to



start developing a good black market. They need to keep that sort of thing in a perspective. Education is going to be the real key, and they also have to be careful so they aren't raising the price of cigarettes to the point where they really attract that segment to develop that black market.

**SEN. CHRISTIAENS** said in relation to this discussion, he has a real live situation that confirms **SEN. DEPRATU'S** concerns. They went "tobacco free" in the Department of Corrections last year. The price of a cigarette in the Montana State Prison, today, is \$150.00.

**SEN. BERRY** said the problem he has and was trying to address a bit earlier is that they are tagging numbers, and he is assuming that there is many other people tagging numbers. In the early session, they have all seen those projections, and the first 2 or 3 years, those numbers are real fuzzy. Once they get to another legislative session, or two, the numbers will become at least consistent enough that you could anticipate what these numbers will do. It bothers him that they are just tagging percentages on because as he looks at all of these categories, all of these expenditures are sound, and he thinks they have popped up at everybody's request. He thinks when these numbers are small in the first couple of years, he is assuming there will be some heavy priorities, when they don't have \$30 million a year. That is why he is bothered by the percentages. The idea of a summit, or even some oversight group out there, when you know how much money is there and they know the wishes of the Legislature. The people of Montana, then they would sit down and when they know they have \$5 or \$10, or \$20 million, there would be a means to prioritize those expenditures. If CHIPS is the most important thing and education is the most important, lets make sure that they fund those before they start, because you are not going to with these percentages. It is not going to pencil out. He doesn't think its sound to tag numbers on and he doesn't know where. They understand it better than he does. Maybe a month or two from now all of these will mix and they will change, but it seems to him they should leave the percentages out.

**VICE CHAIRMAN THOMAS** said before they go further, he needs to bring them back to discussion of the amendment.

**SEN. GRIMES** said he was willing to withdraw the amendment. At some point in time, they just need to make sure they don't bind themselves when they are not sure what it is. He thinks that point has been made. He is willing to remove the amendment.

**VICE CHAIRMAN THOMAS** said he actually liked the amendment. If they want to have a vote on it, it is fine with him.

**SEN. BARTLETT** said because they don't know right now, she thought it would be preferable to leave the language at 50%. It is just plain statutory language and can be changed every single session hereafter. If it were imperative enough, it could be changed long before the budget was to be decided and made effective on passage and approval. When people have a clear definition of the situation as time passes that is what is likely to happen no matter what they end up with in this session.

**VICE CHAIRMAN THOMAS** replied that was a point well taken.

**SEN. BISHOP** asked where they were with the Federal Government wanting to claim 70% of the Settlement at one time. He hasn't heard talk about it lately.

**VICE CHAIRMAN THOMAS** said he thought that **SENATOR BURNS** has indicated there is strong legislation to leave is "solely" with the States period.

**VICE CHAIRMAN THOMAS** said **SEN. GRIMES**, his amendment may be as **SEN. BARTLETT** has said, "the obvious". They could change that law, right. He asked **SEN. GRIMES** if he withdrew his amendment?

**SEN. GRIMES**, withdrew his motion of proposed amendments to  
SB 489.

**VICE CHAIRMAN THOMAS** clarified they were back on **SB 489**.

**Discussion:**

**SEN. ECK** said if they really wanted to look at the other bills and do some negotiating, they could call this bill a revenue bill, because it is. It could stay with the Committee until the 70th day. Strategically if it is better to send the bill on.

**SEN. HARGROVE** said, before they vote, he basically agrees with what every one in the Committee has said. The idea of a summit, the idea of if they get \$1 million, or if they get \$40 million the percentages will be different. He hates to send a bill, if it is something people have to deal with, and if they have to reduce it or resend it or get new legislation. He is sure, when and if the money comes there won't be any problem figuring out what to do with it. He thinks it is so premature. It's great, He thinks he would like the "up to", the percentage will be very different, depending on how much money it is. The training and education are extremely important. All very good, he just feels like they shouldn't do it, and he wanted to say that before the vote and he looked very mean spirited and nasty.

**SEN. GRIMES** said all he can say is that he assumes that what they are doing is getting a glimpse of what everybody tells them the 1980's were like, politics of surplus versus the politics of deficit.

**VICE CHAIRMAN THOMAS** said he would take it up with the Senate Leadership as to whether they'd like this Tobacco Summit, that was mentioned as a good idea, obviously that needs to be done. He will take that from here, whether it is a Subcommittee, or this Committee, or whatever, he will find out.

**VICE CHAIRMAN THOMAS** said, seeing no further discussion, reiterated, the motion before them is DO PASS ON SB 489.

**Vote:** The motion carried with **SEN. HARGROVE, SEN. GRIMES, and SEN. BERRY** voting "no" - 8-3.

**EXECUTIVE ACTION ON SB 511**

**Motion/Vote:** **SEN. DEPRATU** moved that **SB 511 BE TABLED.** Motion carried 10-1 with **Bartlett** voting no.

**EXECUTIVE ACTION ON SB 399**

**Motion:** **SEN. HARGROVE** moved that **SB 399 DO PASS.**

**Discussion:**

**VICE CHAIRMAN THOMAS** asked **Mr. Steve Browning** if he would give them the proposed amendment.

**EXHIBIT** (phs41a15)

**Steve Browning, Representing the Montana Hospital Association,** said he is distributing an amendment that **SEN. JABS** has approved. He said **SEN. JABS** believes this bill will likely pass the Committee without an amendment, but he listened very carefully to the testimony, and thought some of the questions should be addressed with amendments. There are five amendments.

He explained the amendments. It became clear the more they studied the bill, even though this is existing law, that what they were doing, it was going to require you to pay a fee, even before you could examine your medical record. The thought was to

make that examination "free" if you came out and wanted to examine your record, the provider would have to bear the expense of getting the records together and bring them to you. But there would not be a charge for that examination.

**VICE CHAIRMAN THOMAS** asked **Steve Browning** to help the Committee find the language in the bill.

**Steve Browning**, clarified, it should be Line 26, "examination, or". He said what they are trying to do is make this available at "no charge." He referred to the second amendment Page 4, Line 26 following available, insert "at no charge". He asked for the Committee's indulgence, **Susan Fox** and himself tried to do this hastily and he apologized for any they had missed.

On Page 5, Line 10, where it says, "the health care provider", it is for each request made under this Subsection. This was **SEN. BARTLETT'S** question, they are clarifying it. It's for each request, the fee applies. So it is inserting, "for each request in the Subsection, "the" and it goes on from there, and on Page 5, Line 12, is the point they made before. Where you are not required to pay the fee, before you examine the record. You are only required to pay the fee after you examine the records. If you decide after reviewing, then you decide if you want to have the copying done, it's a pre-examination. Those are the three amendments.

**VICE CHAIRMAN THOMAS** questioned **Steve Browning**, it would be a free examination, but not a free copying.

**Steve Browning** answered, that is correct. Under the proposed amendment it would, free to examine the record. If you decided you wanted a copy, then the fee would apply, and the charge would be .50 cents per page. The only additional points that **SEN. JABS** wanted to emphasis, is if you give them free, all you are going to do is further cost shifting to the private pay payers. The expense is going to be borne, who is it going to be borne by, well Medicare and Medicaid won't pay for it. So it will be paid again by private insurers.

**SEN. CHRISTIAENS** said because he is not an attorney, he doesn't have a clue. He asked **Steve Browning**, how many times would an entire record be requested?

**Steve Browning** answered, in his case, he has never requested his medical record in his life. Some people request it quite often. Also in connection with a particular series of a medical procedures they might continue to request again and again for the record. Of course they can be voluminous. **Jack Casey** was

telling them that just on one of the patients at Shodair Hospital, the records are 8,000 pages long. They can be quite extraordinary. These costs are real costs. The care that is required of these medical records is quite intense, which is what we want for our own privacy and also for the accuracy of the records.

**SEN. BARTLETT** asked **Steve Browning**, but how often are you going to hear of an 8,000 record file, isn't that the exception?

**Steve Browning** replied, he thought it's not common, but it's not uncommon. He said **SEN. JABS** was talking to his wife last night, who handles medical records for Hardin. It is a pretty small facility and she says, they get somewhere between 25 - 30 requests a month. That is on the average of one a day, or more. It doesn't sound like much for one day, but you go try to find a medical record, and you've got your hands full. You have to get all the records and also check them out before you show them to the individual, to be sure you are not disclosing anything you should not disclose.

**SEN. BARTLETT** asked if that request is from individuals as opposed to requests because a patient is going to seeing a specialist, or going to a nursing home for skilled nursing care as an interim step to getting back home?

**Steve Browning** answered it was his impression, he was talking to her, he is pretty sure, she was talking about requests, like patients coming in for the record. He said it is pretty routine for insurance companies. Insurance companies know exactly what they have and the providers know exactly what they are after. It is the patients that are not really sure what they are after.

**SEN. ECK** asked how about malpractice attorneys?

**Steve Browning** answered, regarding the malpractice attorney. He assumed that fits in with the 25 - 30, but he is not entirely sure of that. She was telling him, that it was pretty common for the attorneys to come in and do the examination with her. They sit down with the client sometimes, and go through the examination to make sure they review the record together.

**VICE CHAIRMAN THOMAS** asked **Susan Fox**, if they were square on the amendment in the document before them says, they do not need this first line in the examination.

**Susan Fox** clarified, she believed that was accurate. If they wanted to clarify that the examination is without charge, she would think, Page 4, Line 26, following the word examination, you

could insert, "without charge", to make it clear that the examination is without charge, not the copying. Then **Mr. Browning's** amendment is on Page 5, Line 10, and Line 12, permit examination, or copying. If they strike that, and insert "either copy or provide copies". That make its clear on the examination, you don't have to pay anything to examine, but as soon as you request copies, you must pay that charge prior to receiving.

**VICE CHAIRMAN THOMAS** asked if the Committee members were clear on the amendments.

**Motion/Vote:** **SEN. CHRISTIAENS** moved that **SB 399 BE AMENDED.**

**Motion carried unanimously -11-0.**

**Motion:** **SEN. CHRISTIAENS** moved that **SB 399 DO PASS AS AMENDED.**

**Discussion:**

**SEN. BARTLETT** said there was interest in their last meeting about the possibility of simply specifying that each patient is eligible for one free copy of their record. She is interested in knowing if there is any interest in that.

**SEN. CHRISTIAENS** said he thought that was nice. He doubts that not very many patients would do it. He would like to hear from maybe **Steve Browning** or **Jim Ahrens** if that would be an expensive procedure for the hospital. How often would you think that someone would do it?

**Jim Ahrens**, answered, you'd recall that the testimony on this issue was a bit garbled. First of all **SEN. JABS** made it very clear throughout that what they are talking about here is a maximum fee. Montana is the only state in the union that has actual costs, which is the source of the ligation, they are just trying to get onto a fee. The impression was given by some of the witnesses that you do get these records free if you ask for them. It's his belief based on a few conversations, that he thinks you do get them free now, in many cases. When the patient comes in and talks to them, and it is really clear to them that this is a genuine effort to get their records. The reason he believes that is because when he was talking to **SEN. JABS** wife last night, that is exactly what she said. That if the patient comes in, she gives it to them for free. He is not saying that is the written policy, but when he watched the heads of the three medical records people, when the question was asked, they all nodded, when they talked about free, but when you tried to really pin them down, they wouldn't say, oh no, we do that. He doesn't know if that helps them.

**SEN. DEPRATU** said, he has really got mixed feelings on this. He thinks not giving a customer, and he would consider a patient a customer in a situation, a client in the business world, would be like somebody in the insurance business or the auto business or banking business, saying if you want a copy of your contract, why we are going to charge you extra to get copies of that, just because that is part of your records. He thinks these are part of the records, and yet when **Steve Browning** talks about an extreme case can have up to 8,000 pages. He wants to meet a middle ground here, along the lines that, if they use the words, "the hospital may charge" a patient for the first set of records, if the number of pages exceed 100 pages. Something like that because it gets into real cost, but maybe more than something that to the first 100 pages would be free if requested by the patient, after that some kind of a minimal charge.

**SEN. FRANKLIN**, said that was kind of interesting. One of the witnesses testifying said the .50 cent fee per page was okay, and the administrative fee was okay, but the two together seemed a bit much. An example could be, a .50 cents a page up to a certain amount, and then you pay the administrative fee, a flat administrative fee after that point. There is different reasons people are going to request records. An instance might be a child that was in Shodair, and has an 8,000 page record, and is going to residential treatment in Arizona. That is a very specific reason. Then there is the folks who get their records for litigation, trial attorneys for purposes of litigation which might be built in to some degree into that whole other picture. This also includes average folks. She would like to find some middle ground.

**SEN. HARGROVE** said he agrees exactly with what **SEN. FRANKLIN** said, most of it. What they may have here up to a certain level, and that seems to have fixed the problem. It seems like they are trying to get into the area of trying to legislate management style. If one hospital wants to do something one way, and one wants to do it another. Nothing is free. You know somebody is paying for these copies, whether it's a policy of one hospital to charge a little bit more, and then give them free or charge them down. He didn't know if the testimony indicated there was a particular problem. Micro-management seems to be where they are headed if they do that. Even middle ground could be done, but if it isn't broke, don't fix it. He would say, pass the bill the way it is.

**SEN. BERRY** said the only way a free copy is practical, and not put a big burden on the hospital, is to give everybody a free copy at the time they exit the hospital. Everything is there then. Then 80% of the copies are just going to disappear , like

people who don't want it. After the fact is the burden of the administration. You go get the box or the file how ever long ago it is, and you bring it out. If there is a concern, and he heard that too. They might consider the administrative fee of \$15.00 and in that fee they got up to so many copies, maybe 6 or 8 copies or whatever. He thinks the free copies is a big burden.

**SEN. ECK** said she likes it better without any amendments. She was thinking of the extra costs if you have to go back into records that are 30 or 40 years old, that someone might want. This is something that hospitals have to decide for themselves. They have put maximums on. If they want to charge less, they can.

**SEN. DEPRATU** said he was going to say the more he thinks about this the more it really bothers him to have this in statute, and for them to even be dealing with it. It is the type of situation where he thinks they are trying to micro-manage somebody else's business. He has a problem with doing that.

**SEN. BARTLETT** stated that she understands that this was brought forward by healthcare providers, the hospital in particular. She understands their concerns. She thinks it is reasonable to put maximums into the law. What they are really talking about in terms of one free copy, it's my body. Whatever was done in the precinct of the hospital walls, was done to my body, and she thinks she has the right to the information about that without having to pay for every single copy. That is where she sees one free copy in, not necessarily for micro-managing, or from a business perspective in terms of looking at from a hospital perspective, but looking at from the patient's perspective. Why shouldn't she be able to have one copy of her records without paying for it, is her point. So they can have the call for the question, and move on.

**VICE CHAIRMAN THOMAS** said he thought that was a good question. He had a question for **Steve Browning**. Could he verify that? He thought **SEN. BARTLETT** had an excellent point. Do they get a free copy in essence when they check in, like a blood draw, a blood test on a person? They give you a copy of that report, is that the case, or could he expand this? Is it the initial report that they get a free copy of and is it when the patient goes and asks for additional copies that the bill applies, what is the scenario here?

**Jim Ahrens**, answered he would try to clarify. When you go and get a test, you get a copy of the report, or your physician will and that is just provided routine. If you're a man and you get a P.A. test, that will come back to your physician normally, there



is no charge for that. The complicating factor, when you get in the hospital, you get all types of records. And even when you are discharged, you couldn't get a copy of your total record if you wanted at that point in time anyway because it's not there. It's a complicated issue.

***{Tape : 3; Side : B; Approx. Time Counter : 1 - 28}***

**SEN. CHRISTIAENS** said as he understands this bill, as they have already amended it, the patient has the right to examine at no cost. He thinks this goes along way with this process because he is not really sure that you have that right now in every hospital. Maybe you do, but he doesn't know that. The complicating issue is the right to that free copy. He is kind of torn on that.

**SEN. DEPRATU** said he kind of agrees with **SEN. BARTLETT**. The free copy, he thinks you are entitled to a free copy of things that relate to you. He thinks you have a right to a copy, whether you want it as a free look, or a free hard copy. Either way, its important. Some people may not be comfortable sitting in a cubicle trying to digest something they want to take home and be able to peruse it.

**SEN. GRIMES** said since there is not a motion on this issue, and since they have almost discussed it out, he would like to go ahead and vote on the bill. Frankly, when you are talking about records management and at the level these people need to maintain their records. For him to go back to St. Peter's Hospital, say he'd like to have his records for the last 2 years, that is a significant cost for them to go dig all that out and bring it up. He thinks they are micro-managing by getting into all of that, they should just go ahead and vote on the bill.

**SEN. BERRY** said he thinks that if you tag in free and this is a significant administrative cost for the whole, and put in here that it's a free copy for everybody, then he thinks it is going to prorate into your bill for every single person, every copy, .50 cents, where only those 20% are going to ask for them. Everybody is going to pay for that free copy. He thinks they should leave it out.

**SEN. CHRISTIAENS** said there is a part that says "yes" he thinks he has a right to a free copy if it is your history. But if you were a psychiatric patient, and you got that copy, there could be things in that record that could throw you over the edge possibly. Depending on how stable you are at the time you get it, and he may be wrong, but he thinks at times your doctor might not make some of the comments on the chart, if he or she knew.

**SEN. FRANKLIN** said she thought that was another issue. Anybody has the right to access their chart, it doesn't matter. So yes, everybody is under the law, everybody including psychiatric patients are permitted. You might not think gee, whether its great or not, but that's not the point, everybody is entitled to a copy of their charts.

**SEN. BARTLETT** said she would move an amendment. It is on Page 5, Line 13, adding basically a Subsection B, that says, "a healthcare provider must provide the first copy requested by a patient of a patient's health care information without charge to the patient." She said she'd make that motion so they hold their feet to the fire and make a clear decision on this, one way or the other. No conflicts of interest here.

**Motion/Vote:** **SEN. BARTLETT** moved that **SB 399 BE AMENDED**. On voice vote, motion carried 8-3 with **Sen. Berry, Sen. Grimes, and Sen. Hargrove** voting "no" by raising their hands.

**SEN. FRANKLIN** said she'd like to make one comment before she votes.

**VICE CHAIRMAN THOMAS** said they were not voting now.

**Motion:** **SEN. CHRISTIAENS** moved that **SB 399 DO PASS AS AMENDED**.

**Discussion:**

**SEN. FRANKLIN** said from her former colleges, in 1991, **Republican Senator Thayer** from Great Falls, served on this Committee with her and she had the mandated mammography bill. She remembers they really worked on that bill and they said be careful where you set the limit for how much you are going to reimburse. His concern was reimburse, but then you set the maximum. Are they setting in a sort of a defacto or policy that now that everybody is going to charge \$15.00.

**SEN. BOHLINGER** said he just learned that **SEN. JABS** feels strongly that if this bills is amended, he would like to see tabled, rather than brought forward on the free copy.

**SEN. HARGROVE** said he doesn't think he could vote for the bill after the amendment that they just put on. They have just raised the price on people, and just filled a lot of garbage cans with things that people don't need. We are indeed micro managing and

he can go with the bill without the amendment, but with it he can't vote for it.

**Substitute Motion:** SEN. BOHLINGER made a substitute motion that SB 399 BE TABLED.

VICE CHAIRMAN THOMAS explained that SEN. BOHLINGER'S motion is non-debatable. They can either pass this motion, or an option would be to reconsider the amendment. There is no further discussion.

**Substitute Motion/Vote:** SEN. HARGROVE made a substitute motion TO RECONSIDER THE AMENDMENT TO SB 399. On voice vote, the substitute motion carried 8-3, with Sen. Bartlett, Sen. Christiaens, and Sen. Franklin voting "no."

VICE CHAIRMAN THOMAS said they were back on SEN. BARTLETT'S amendment to ask for one free copy of medical records. He asked if there was discussion on the one free copy amendment, motion of Sen. Bartlett's.

SEN. BARTLETT asked for clarification of the motion, to strip the amendment, or what?

VICE CHAIRMAN THOMAS said they were back on the motion now, because they reconsidered their action, so they are back on her motion to amend SB 399, adding the "one free copy" amendment. He explained an "aye" vote is in favor of amending the bill, and a "no" vote is in favor of not amending.

VICE CHAIRMAN THOMAS asked all those members in favor of SEN. BARTLETT'S AMENDMENT TO AMEND SB 399, raise their right hand, he counted 4 "yes" votes. He asked all those opposed to raise their right hand, 7 "no" votes. The motion failed -4-7-.

VICE CHAIRMAN THOMAS said they were back on the motion of SEN. CHRISTIAENS that SB 399 DO PASS AS AMENDED.

**Vote:** On Voice Vote, with 4 "no" votes, the motion carried -7-4.

*{Tape : 4; Side : A; Approx. Time Counter : 0 - 15}*

**ADJOURNMENT**

Adjournment: 6:30 P.M.

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SEN. FRED THOMAS, Vice Chairman

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MARTHA MCGEE, Secretary

AB/M

**EXHIBIT** (phs41aad)